

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6141 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SIRAJUDDIN RUKNUDIN KAZI

Versus

NADIAD EDUCATION SOCIETY

Appearance:

MR MO JOSHI for Petitioner
NANAVATI & NANAVATI for Respondent No. 1
MR SN SHELAT for Respondent No. 3
MS MANISHA LAVKUMAR, A.G.P., for Respondent No. 4

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 12/04/2001

ORAL JUDGEMENT

The petitioner was appointed as a Demonstrator of
Biology in J & J College, Nadiad run by the Charutar
Kelavani Mandal with effect from 03/08/1966. His

services were terminated from 14/06/1973. The petitioner challenged the said termination by filing Application No.70 of 1983 before the Gujarat Affiliated Colleges Services Tribunal. After considering the oral and documentary evidence on record and submissions made on behalf of the parties, the Tribunal passed the following order :

"The order of termination passed by the Management is declared to be invalid. However, for reasons given above, the Tribunal does not consider it to fit to order the reinstatement of the applicant in service in the college. The Management is directed to pay him the compensation on the basis of the last salary which he was receiving from the date of termination i.e. 14-6-73 to till June, 1978. The rest of the relief claimed by the applicant is rejected."

2. In this petition filed in the year 1984, the petitioner has made a grievance that once the Tribunal found that the termination order was illegal, the Tribunal ought to have passed an order for reinstatement with backwages and the Tribunal ought not to have refused reinstatement merely on the ground that during the intervening period i.e. between 1973 and 1984 the petitioner had started practice as a lawyer.

3. This argument would have merited consideration, if the petition were heard at the relevant time. However, when this petition has reached final hearing in the year 2001, a long period of 27 years has already elapsed since the petitioner last worked as a Demonstrator in Biology. It would, therefore, not be just and proper to direct the college Management now to reinstate in service a person who has not taught the subject for the last 27 years and who could not be expected to have been in touch with the subject of Biology while practicing as a lawyer. It is also pertinent to note that the Tribunal had refused to grant the relief of reinstatement not only on the ground that the petitioner had already started practice as a lawyer since 1976 but also on the ground that subjects of Botany and Zoology were discontinued in the respondent college and that there were two Demonstrators already in the college who were senior to the petitioner and there was insufficient workload so as to require the management to take the petitioner back in service.

4. In view of the above, the impugned judgement does

not call for any interference. The petition is, therefore, dismissed. Rule is discharged with no order as to costs.

(M.S. Shah, J)

'Bhavesh'